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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/613,605	07/03/2003	David DeRogatis	24170759.16	7300

23562 7590 08/21/2007  
BAKER & MCKENZIE LLP  
PATENT DEPARTMENT  
2001 ROSS AVENUE  
SUITE 2300  
DALLAS, TX 75201

EXAMINER
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GARCIA, ERNESTO

ART UNIT	PAPER NUMBER
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3679

MAIL DATE	DELIVERY MODE
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08/21/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Interview Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/613,605	DEROGATIS ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ernesto Garcia	3679	

All participants (applicant, applicant's representative, PTO personnel):

- (1) Ernesto Garcia. (3) \_\_\_\_.
- (2) James Ortega. (4) \_\_\_\_.

Date of Interview: 07 August 2007.

Type: a) ☒ Telephonic b) ☐ Video Conference  
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.  
If Yes, brief description: \_\_\_\_.

Claim(s) discussed: 65, 71, 72, and 77.

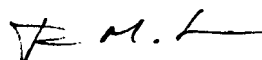
Identification of prior art discussed: n/a.

Agreement with respect to the claims f) ☒ was reached. g) ☐ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

  
**JAMES M. HEWITT**  
**PRIMARY EXAMINER**

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.

\_\_\_\_\_  
Examiner's signature, if required

## Summary of Record of Interview Requirements

### Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

### Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

#### Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

#### 37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,  
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

### Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Proposed amendments to the drawings, the specification, and the drawings were presented and discussed. The examiner reviewed the proposed drawings and noted that Figures 15A still was not a cross-section of Figure 15 or its alternative species of the plug fastener in plastic shown in Figure 15C. Mr. Ortega indicated that the opening 216A in Figures 15A and 15C would be amended to correspond to a hexagonal opening that is not passing through both ends of the plug fastener but rather on one side of the plug fastener as originally disclosed. The examiner noted that reference characters "222B1, 222B2" in Figure 15B and "222A1, 222A2" in Figure 15A were repeated on the other side and should be deleted. The drawings were discussed and the examiner suggested how to fix the objections. With respect to the changes to the specification, the examiner agrees with the changes since the proposed amended paragraphs are reverting to that which was originally disclosed. With respect to the proposed claims, the change to claim 65 adds the allowable subject matter and claims 71 and 72 attempts to fix the 35 USC 112 second, paragraph rejection. The examiner noted to amend "a head" in claim 72, line 1, to --the head-- disclosed in claim 71. The examiner also noted that claim 77 appears to repeat the ridges extending outwardly from the hemispheroidal portions as described on claim 65, line 10, and thus the claim appears to be redundant since the ridges will inherently be extending from the outer surface of the hemispheroidal portions. Mr. Ortega suggested to cancel the claim or possibly add other subject matter to claim 77.

Jul 11  
8/16/07

PTOL-415A (07-07)  
Approved for use through 09/30/2007. OMB 0651-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

### Applicant Initiated Interview Request Form

Application No.: 10/613,605 First Named Applicant: De Rogatis  
Examiner: E. Garcia Art Unit: 3679 Status of Application: Rejected (NF)

#### Tentative Participants:

(1) Examiner Garcia (2) Atty. James Ortega  
(3) \_\_\_\_\_ (4) \_\_\_\_\_

Proposed Date of Interview: August 7, 2007 Proposed Time: 4:00 EDT (AM/PM)

#### Type of Interview Requested:

(1) ☒ Telephonic (2) ☐ Personal (3) ☐ Video Conference

Exhibit To Be Shown or Demonstrated: ☐ YES ☒ NO

If yes, provide brief description: \_\_\_\_\_

### Issues To Be Discussed

Issues (Rej., Obj., etc)	Claims/ Fig. #s	Prior Art	Discussed	Agreed	Not Agreed
(1) <u>Obj. (figs/claims)</u>	<u>Claim 65, 73</u> <u>155A, 155C</u>	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(2) <u>Obj. (spec)</u>	<u>P 57, 58</u>	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(3) <u>Rej. (102)</u>	<u>Claim 65</u>	<u>Parton</u>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
(4) <u>Rej. (112)</u>	<u>Claim 71</u>	_____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> Continuation Sheet Attached					

#### Brief Description of Arguments to be Presented:

Amended figures 15, 15A + 15C per Examiner suggestions; amend P 57 + P 58 per  
Examiner suggestion; agree designation "upper + lower ridges" in figures; amend claim 71;  
amend claim 65 with allowed subject matter. (Proposed Amendment Submitted 10/5/07)

An interview was conducted on the above-identified application on 8/7/07.

NOTE: This form should be completed by applicant and submitted to the examiner in advance of the interview (see MPEP § 713.01).

This application will not be delayed from issue because of applicant's failure to submit a written record of this interview. Therefore, applicant is advised to file a statement of the substance of this interview (37 CFR 1.133(b)) as soon as possible.

James H. Ortega  
Applicant/Applicant's Representative Signature

E. Garcia  
Examiner/SPE Signature

James H. Ortega  
Typed/Printed Name of Applicant or Representative

50,554  
Registration Number, if applicable

This collection of information is required by 37 CFR 1.133. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

UTILITY PATENT APPLICATION  
ATTY. DOCKET NO. 24170759.16**IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE**

In re Application of:  
David DeRogatis *et al.*  
Serial No.: 10/613,605  
Filed: July 3, 2003  
For: **FASTENERS, RAILING  
SYSTEM AND METHOD OF  
ASSEMBLY**

Group Art Unit: 3679

Examiner: Ernesto Garcia

Submitted via EFS

Mail Stop: **Amendment**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria VA 22313-1450

**PROPOSED AMENDMENT – DO NOT ENTER**

In response to the Non-Final Office Action mailed July 18, 2007, the following amendments and remarks are submitted for the Examiner's consideration. The Applicants note that the three-month deadline for filing a response to the pending Office Action is October 18, 2007; thus, this Amendment is timely.

SERIAL NO. 10/613,605  
ATTORNEY DOCKET NO. 24170759.16

**AMENDMENTS TO THE SPECIFICATION**

(1) Please amend paragraph [0056] as follows:

[0056] The fasteners 200A, 200B are also provided with a second portion 214A, 214B having a second set of ridges 213A, 213B used to frictionally engage an interior surface of an opening in another member to which the picket is joined, for example, a rail of a railing. The ridges 213A, 213B of the second set are desirably slanted in the opposite direction from, but directed towards, the ridges 211A, 211B of the first set such that the ridges 213A, 213B frictionally engage a first opening in one item, e.g. a rail, while ridges 211A, 211B frictionally engage an opening in another item, e.g. a picket.

(2) Please amend paragraph [0057] as follows:

[0057] A stop ~~222A<sub>1</sub>, 222A<sub>2</sub>, 222B<sub>1</sub>, 222B<sub>2</sub>~~ may be provided on the exterior surface of the fasteners 200A, 200B between in either or both the first portion 212A, 212B and second portion 214A, 214B, for use in stopping the fastener 200A, 200B from being inserted too deeply into one or the other of the picket and the rail to which it is being joined. As illustrated, maximum diameter ridges ~~the stop 222A<sub>1</sub>, 222A<sub>2</sub>, 222B<sub>1</sub>, 222B<sub>2</sub>~~ may simply be the ridges 211A, 211B, 213A, 213B of either or both the first and second portions 212A, 212B, 214A, 214B having the outermost diameters, i.e., the ridges 211A, 211B, 213A, 213B having the largest diameters when compared to others of the ridges. As may be clearly seen from FIGURES 15, 15A and 15B, in some embodiments, these outermost ridges 222A<sub>1</sub>, 222A<sub>2</sub>, 222B<sub>1</sub>, 222B<sub>2</sub> may do not function strictly as a positive stop, but rather simply provide the maximum ridge diameter for either or both portions 212A, 212B, 214A, 214B of the fastener 200A, 200B to engage their respective items (e.g., a picket or a rail). As can be seen in FIGURES 15A and 15B, the first and second

SERIAL No. 10/613,605  
ATTORNEY DOCKET NO. 24170759.16

hemispheroidal portions are symmetrical in construction to one another about their plane of opposition (illustrated by the lines separating the first portions 212A, 212B from the second portions 214A, 214B). While the fasteners 200A, 200B are desirably fabricated in one piece and of uniform material throughout, the first and second portions 212A, 212B, 214A, 214B, or other components of fasteners 200A, 200B may be constructed of different materials or different pieces of the same or similar materials and then assembled to make the fastener.

(3) Please amend paragraph [0058] as follows:

[0058] The fasteners 200A, 200B are preferably provided with an aperture 216A, 216B on at least one end thereof, the aperture optionally being sized and shaped to accommodate standard-sized tools such as those of rectangular cross-section (opening 216A in FIG. 15A), e.g. a rectangular nut driver or socket wrench, or those having other cross-sections, e.g. hexagonal drivers, also known as "Allen" wrenches, for example. In such case, the aperture 216A provides a way of applying torque to insert a lower portion 214A of the fastener 200A into an item such as a rail.



### AMENDMENTS TO THE CLAIMS

Below is the entire set of pending claims pursuant to 37 C.F.R. §1.121(c)(3)(i), with any mark-ups showing the changes made by the present Amendment.

1 to 64 (Canceled)

65. (Currently amended) A plug fastener, comprising:

a first hemispheroidal portion;

a second hemispheroidal portion opposed to the first hemispheroidal portion, the first and second hemispheroidal portions symmetrical to one another about their plane of opposition, each hemispheroidal portion comprising:

a mating surface truncating the respective hemispheroidal portion, the mating surface defining a mating plane that is parallel to the plane of opposition whereby the mating planes of the respective first and second hemispheroidal portions are opposite from each other across the plane of opposition, and

ridges extending outwardly from the respective hemispheroidal portions between the mating surfaces and the plane of oppositionsymmetry; and

an aperture defined within and extending through the first and second hemispheroidal portions, the aperture having a first countersink defined within an opening in the first mating surface and a second countersink defined within an opening in the second mating surface, and having a screw disposed in the aperture.

66. (Previously presented) A plug fastener according to claim 65, wherein the ridges are deformable ridges.
67. (Previously presented) A plug fastener according to claim 65, wherein one of the mating surfaces is adapted to be affixed to a flat surface of a railing.
68. (Previously presented) A plug fastener according to claim 67, wherein the plug fastener is adapted to be affixed to be received within a baluster to be attached to the railing.
69. (Previously presented) A plug fastener according to claim 68, wherein the ridges are deformable ridges and have resiliency sufficient to frictionally engage an interior surface within an opening in the baluster such that the baluster is substantially fixed with respect to railing.
70. (Previously presented) A plug fastener according to claim 68, wherein the plug fastener is adapted to be hidden from view after the baluster is attached to the railing.
71. (Currently amended) A plug fastener according to claim 67, wherein a head of the screw is substantially tapered~~the fastener further comprises an elongate fastener disposed in the aperture and affixing the plug fastener to the railing.~~
72. (Currently amended) A plug fastener according to claim 71, wherein a head of the screw is disposed within one of the first or second countersinks~~the elongate fastener is a screw.~~

73. (Previously presented) A plug fastener according to claim 65, wherein the ridges on the first hemispheroidal portion are directed towards the ridges on the second hemispheroidal portion.

74. (Previously presented) A plug fastener according to claim 65, wherein a profile view of the ridges has a substantially triangular shape.

75. (Previously presented) A plug fastener according to claim 65, wherein the plug fastener is non-metallic.

76. (Previously presented) A plug fastener according to claim 75, wherein the plug fastener comprises a material selected from the group consisting of plastic, nylon, polyvinyl chloride, and polyurethane.

77. (Previously presented) A plug fastener according to claim 65, wherein the ridges outwardly extend from corresponding exterior surfaces of the hemispheroidal portions.

78. (Previously presented) A plug fastener according to claim 77, wherein the ridges outwardly extending from the exterior surfaces of the hemispheroidal portions define a substantially spherical shape for the plug fastener.

79. (Previously presented) A plug fastener according to claim 65, wherein the first and second hemispheroidal portions define a substantially spherical shape.

80. (Previously presented) A plug fastener according to claim 65, wherein the aperture is substantially cylindrical between the countersinks.

81. (Previously presented) A plug fastener according to claim 65, wherein the aperture is substantially perpendicular with respect to the plane of opposition.

### REMARKS/ARGUMENTS

The Applicants respectfully request reconsideration of the present application in view of the foregoing amendments and the following remarks/arguments. By the present Amendment, claims 65, 71 and 72 are amended, as are ¶[0056], ¶[0057] and ¶[0058] of the specification. No new matter has been added. Claims 65-81, as herein amended, remain pending in the present application.

#### **I. DRAWING AMENDMENTS**

The Examiner has requested that all of the current drawing sheets be resubmitted in a single packet, with reference to the drawings filed on June 3, 2003. In response, the Applicants are submitting Drawings Sheets 1-10, which include Replacement Sheets 1-8 and New Sheets 9-10, as suggested by the Examiner. With regard to objections made to the drawings, as discussed in detail below, the following drawing amendments are presented on these submitted sheets, and where the amendments are referenced from the drawings filed June 25, 2007:

FIG. 15 – Aperture 216A is changed from a cylindrical opening to a rectangular opening;

FIG. 15A – Aperture 216A is also changed from a cylindrical opening to a rectangular opening;

The figures corresponding to the drawings filed on June 3, 2003, have been arranged on the same sheets as in those original drawings, as requested by the Examiner;

FIGs. 15A-15D and FIG. 21 are submitted on New Sheets, also as requested.

In view of the above, the Applicants believe the formal drawings fully comply with all requirements and therefore that all objections to the drawings have been overcome.

## II. OBJECTIONS TO THE DRAWINGS

The Examiner has objected to the drawings as failing to show the aperture 216A being rectangular. In response, the Applicants have amended Figures 15 and 15A to illustrate such an aperture. Accordingly, this objection has been overcome.

The Examiner has also objected to the drawings because the Examiner believes reference characters 211A (FIG. 15A) and 211B (FIG. 15B) have both been used to designate the same upper ridges. The Applicants respectfully disagree with the Examiner on this point. Specifically, the fastener in FIG. 15A is a different embodiment than the fastener in FIG. 15B. Similarly, designator "211A" is a different number than designator "211B." Accordingly, designator 211A is used to label the upper ridges of the fastener in FIG. 15A, while designator 211B is used to designate the upper ridges of the fastener in FIG. 15B. Thus, the Applicants respectfully assert that the upper ridges are properly labeled in the drawings.

The Examiner has also objected to the drawings because the Examiner believes reference characters 213A (FIG. 15A) and 213B (FIG. 15B) have both been used to designate the same lower ridges. The Applicants also respectfully disagree with the Examiner on this point. Specifically, the fastener in FIG. 15A is a different embodiment than the fastener in FIG. 15B. Similarly, designator "213A" is a different number than designator "213B." Accordingly, designator 213A is used to label the lower ridges of the fastener in FIG. 15A, while designator 213B is used to designate the lower ridges of the fastener in FIG. 15B. Thus, the Applicants respectfully assert that the lower ridges are properly labeled in the drawings.

The Examiner has also objected to the drawings because the Examiner believes reference characters 222A<sub>1</sub> (FIG. 15A) and 222B<sub>1</sub> (FIG. 15B) have both been used to designate the same

upper centered ridges. The Applicants respectfully disagree with the Examiner on these points. Specifically, the fastener in FIG. 15A is a different embodiment than the fastener in FIG. 15B. Similarly, designator "222A<sub>1</sub>" is a different number than designator "222B<sub>1</sub>." Accordingly, designator 222A<sub>1</sub> is used to label the upper centered ridge of the fastener in FIG. 15A, while designator 222B<sub>1</sub> is used to designate the upper centered ridge of the fastener in FIG. 15B. Thus, the Applicants respectfully assert that the upper centered ridges are properly labeled in the drawings.

The Examiner has also objected to the drawings because the Examiner believes reference characters 222A<sub>2</sub> (FIG. 15A) and 222B<sub>2</sub> (FIG. 15B) have both been used to designate the same lower centered ridges. The Applicants respectfully disagree with the Examiner on these points. Specifically, the fastener in FIG. 15A is a different embodiment than the fastener in FIG. 15B. Similarly, designator "222A<sub>2</sub>" is a different number than designator "222B<sub>2</sub>." Accordingly, designator 222A<sub>2</sub> is used to label the lower centered ridge of the fastener in FIG. 15A, while designator 222B<sub>2</sub> is used to designate the lower centered ridge of the fastener in FIG. 15B. Thus, the Applicants respectfully assert that the lower centered ridges are properly labeled in the drawings.

### III. OBJECTIONS TO THE SPECIFICATION

The Examiner has objected to an amendment to paragraph [0058] of the specification that included the term "optionally" with regard to the size and shape of the aperture in some of the fasteners. While the Applicants do not necessarily agree with the Examiner's position, paragraph [0058] has been amended to remove the term "optionally." Accordingly, it is believed the objection has been overcome.

In addition, the Examiner has also objected to the specification as allegedly containing new matter, specifically with regard to the shape of the apertures illustrated in Figures 15, 15A and 15C. As noted above, however, FIG. 15, FIG. 15A and FIG. 15C have now been amended to illustrate the rectangular aperture discussed in the specification. Accordingly, it is believed the objection has also been overcome.

The Examiner has also objected to the Applicants' illustration of not only a cylindrical aperture, but also an aperture that extends all the way through certain embodiments of the fasteners disclosed in the present application. The Applicants respectfully disagree with these contentions. With regard to whether there is support for an aperture that extends all the way through the disclosed fasteners, the Applicants first point to paragraph [0055] of the specification. Here, it is stated that the fastener "is a solid, or alternatively, hollow member having a ball shape." For a fastener to be hollow, as described here, only skilled in the art would easily understand that an aperture would extend through the fastener. Second, the Applicants point to paragraph [0059] of the specification, where, after discussion of the rectangular aperture shown in FIG. 15, it is stated:

[0059] Alternatively, the aperture 216 may be a countersink for retaining a screw or bolt of length sufficient to pass through the fastener 200 from the side of the aperture 216 to the other side, the screw or bolt then threadably engaging another item, e.g., the rail thereunder.

In order for a screw to "pass through the fastener" one skilled in the art would understand that aperture must be disposed through the entire fastener. These excerpts support the illustration and claiming of fastener embodiments having an aperture passing all the way through such fasteners.



Finally, with regard to the aperture being cylindrical, as opposed to being rectangular or square, the above-cited paragraph [0059] supports the illustration of fasteners with cylindrical apertures passing all the way therethrough. Specifically, the *alternative* embodiments in paragraph [0059] are alternative to the earlier described embodiments having rectangular apertures. Additionally, these alternative embodiments are explicitly described as including a countersink on at least one end of such a fastener. The definition of a "countersink" is "a hole with the top part enlarged so that the head of a screw or bolt will lie flush with or below the surface." *The American Heritage Dictionary of the English Language, Fourth Edition*, Houghton Mifflin Company (2006). Because the head of such a screw to be inserted as such, the head of the screw is typical (i.e., a "flathead" screw). As a result, in order to chamfer an aperture in order to create a countersink for a flathead screw, the initial aperture that receives the screw is drilled as a cylindrical aperture. In fact, an attempt to chamfer a rectangular or square aperture to create a countersink would be futile, and typically dangerous due to breakage of the countersink bit. All of this information is very well known to those skilled in the mechanical arts. Thus, based on the above, if a screw is to pass all the way through a fastener so that it can engage a railing, and if a head of that screw is to be received in a countersink formed into that aperture, then it is unmistakable that the aperture is cylindrical. Accordingly, the disclosure of these details in the original specification provides unmistakable support for the illustration of a cylindrical aperture that passes all the way through certain embodiments of the fasteners, e.g., FIG. 15B. For at least these reasons, it is believed that this objection has also been overcome.

The Examiner has next objected to the Amendment filed on September 2, 2005, for allegedly introducing new matter in paragraph [0057], specifically with regard to the stop 222

discussed in this paragraph. Along the same lines, the Examiner has also objected to the description of maximum diameter ridges 222A<sub>1</sub>-222B<sub>2</sub> in the amended specification. In response, while the Applicants do not necessarily agree with the Examiner's position, paragraph [0057] has been amended so that maximum diameter ridges illustrated in Figures 15A and 15B are no longer cited as "stops." Accordingly, it is further believed that this objection has also been overcome.

Finally, the Examiner has objected to the specification as allegedly not providing antecedent basis for claim 73, lines 1-3, which recites "the ridges on the first hemispheroidal portion are directed towards the ridges on the second hemispheroidal portion." In response, the Applicants have amended paragraph [0057] of the specification to ensure antecedent basis exists for this claimed feature. As previously noted by the Examiner, the originally filed drawings, e.g. Figures 15-17, illustrated triangular ridges, wherein ridges on the upper portion of the ball fastener were directed towards ridges on the bottom portion. Hence, support for this addition to paragraph [0057] is found in the originally filed disclosure. Based on the above, it is further believed that this objection has also been overcome.

#### IV. OBJECTIONS TO THE CLAIMS

The Examiner has objected to claim 65, line 11, for inadvertently reciting the term "symmetry" rather than the term "opposition." In response, claim 65 has been amended to correct this inadvertent error.

#### V. REJECTIONS UNDER 35 U.S.C §112

The Examiner has rejected claim 71 under 35 U.S.C. §112, second paragraph, for

allegedly being indefinite. Specifically, the Examiner asserts that claim 71 makes it unclear whether the railing is part of the claimed fastener or simply an intended use for the fastener. In response, the Applicants have amended claim 71 to correct any uncertainty, and thus it is believed that this rejection has been overcome.

#### **VI. REJECTIONS UNDER 35 U.S.C. §102**

The Examiner has rejected claims 65, 67, 68, 70, 71, 75 and 77-81 under 35 U.S.C. §102(b) as allegedly anticipated by U.S. Patent 2,363,477 to Barton. In the present Office Action, the Examiner has indicated that dependent claim 72 recited allowable subject matter, namely, that the fastener includes an elongate fastener that comprises a screw. The Applicants have amended independent claim 65 to include the subject matter of allowed claim 72. Accordingly, it is believed that independent claim 65, and the claims dependent thereon, are now allowable and respectfully request that the Examiner withdraw this rejection.

#### **VII. REJECTIONS UNDER 35 U.S.C. §103**

The Examiner has rejected claims 66, 69 and 74-76 under 35 U.S.C. §103(a) as allegedly obvious in view of Barton. As mentioned above, the Applicants have amended independent claim 65 to include the subject matter of allowed claim 72. Accordingly, it is believed that independent claim 65, and the claims dependent thereon, are now allowable and respectfully request that the Examiner withdraw this rejection as well.

#### **VIII. CONCLUSION**

The Applicants respectfully assert that claims 65-81, as herein amended, all recite

allowable subject matter, pending the overcoming of any standing objections. The Examiner is invited to contact the undersigned Attorney of Record if doing so would expedite the prosecution of the present application. The Applicants note that the three-month deadline for filing a response to the pending Office Action is October 18, 2007; thus, this Amendment is timely and no fee is required. If it is determined that any fees are due, please charge Deposit Account No. 13-0480, referencing the Attorney Docket Number specified herein.

Respectfully submitted,

/James H. Ortega/

Date: August \_\_, 2007

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Dallas, TX 75201  
Tel: (214) 978-3058

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REPLACEMENT  
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FIG. 1

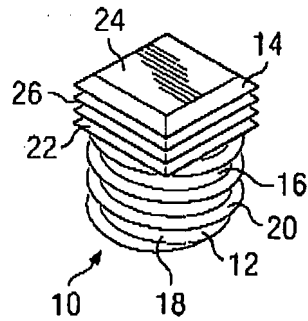


FIG. 2

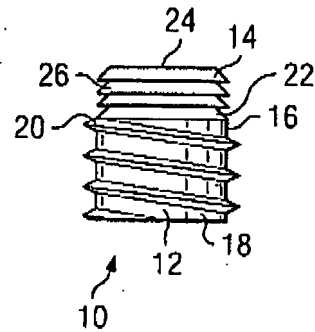


FIG. 3

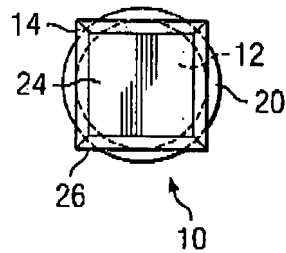
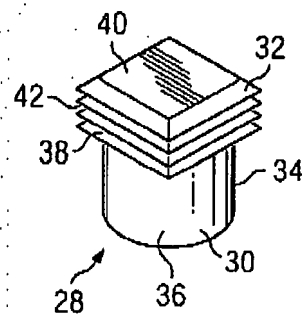


FIG. 4



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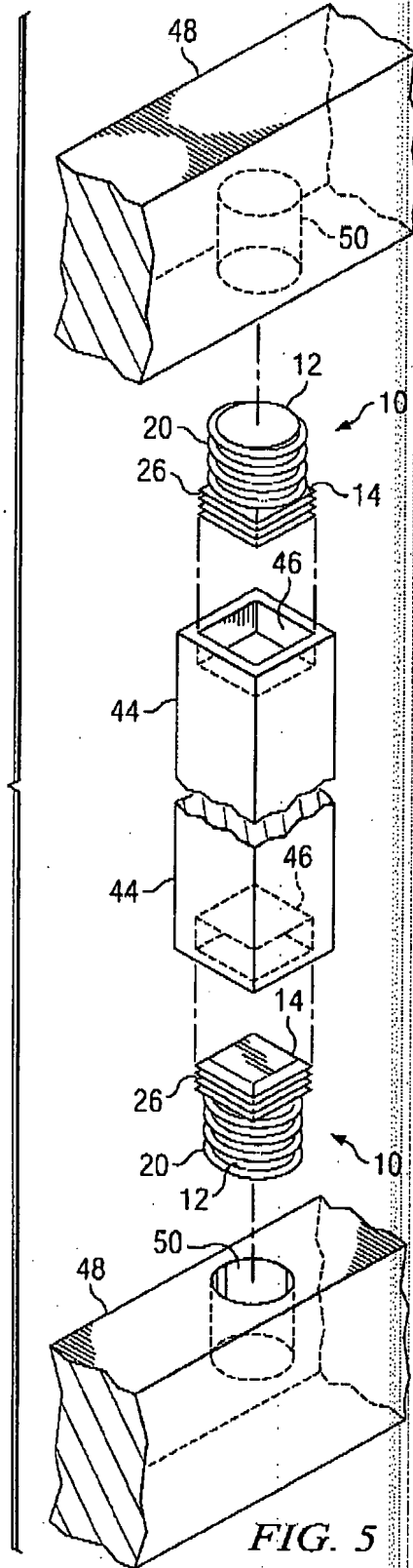


FIG. 5

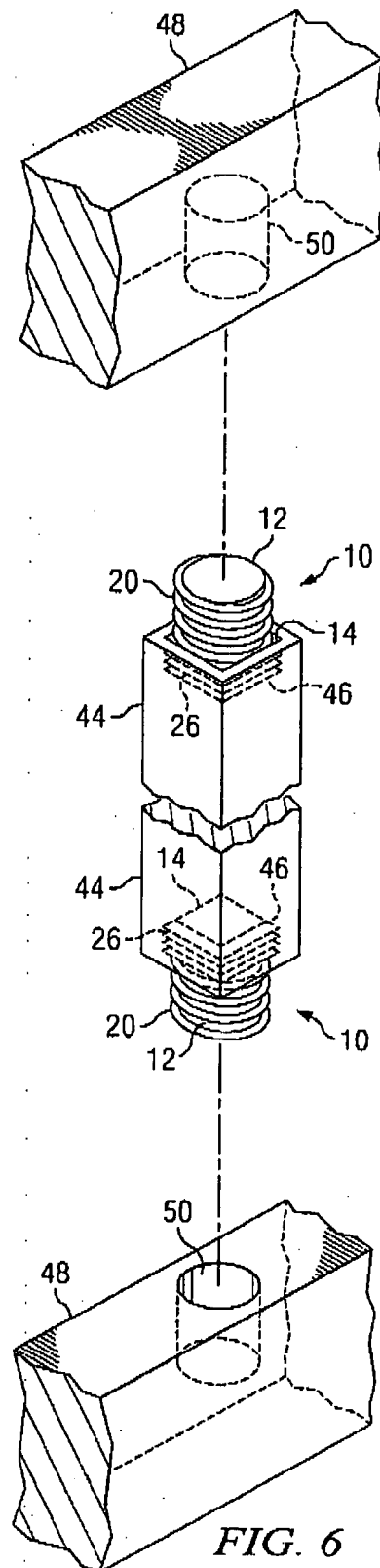


FIG. 6

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FIG. 8

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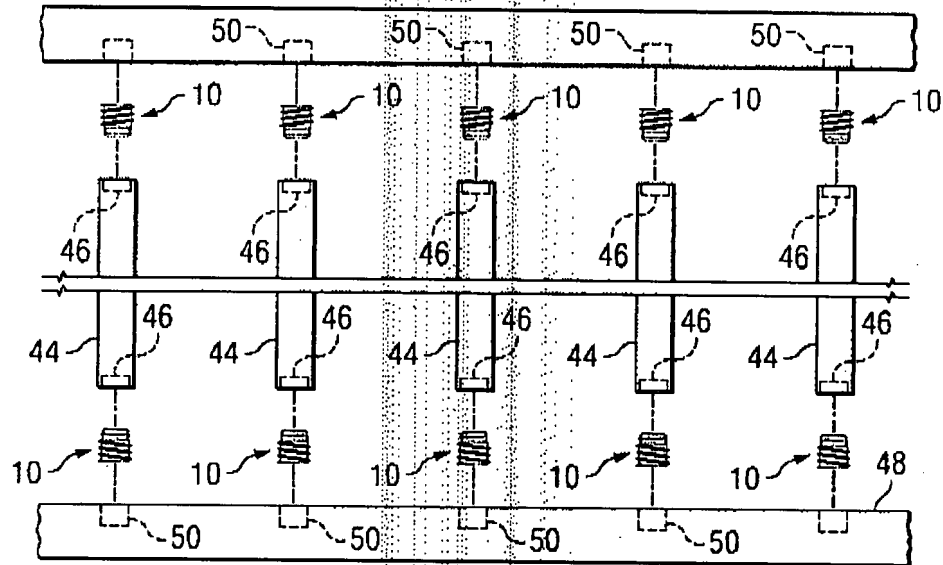


FIG. 7

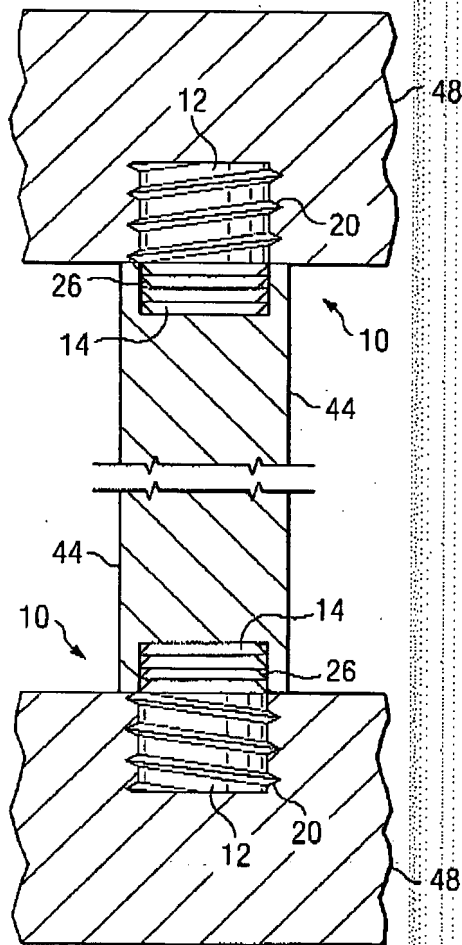
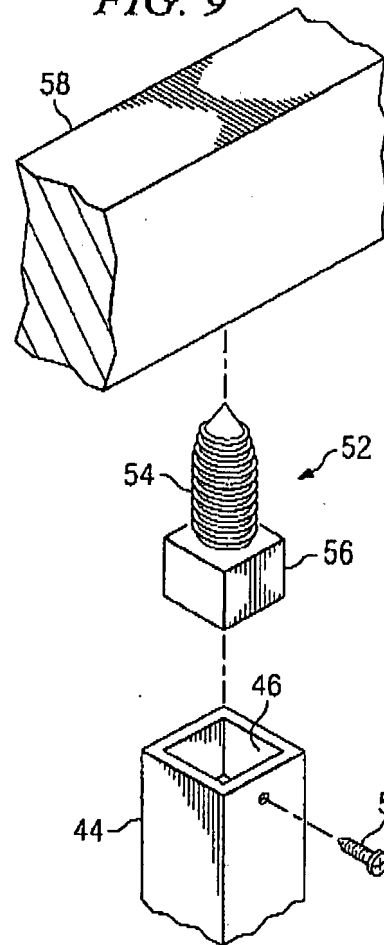


FIG. 9



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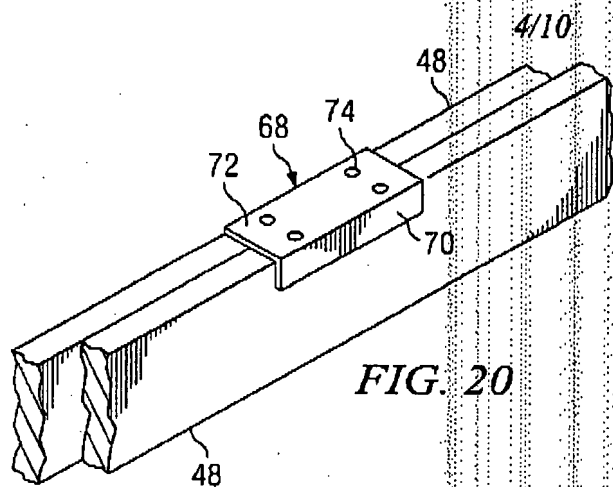


FIG. 20

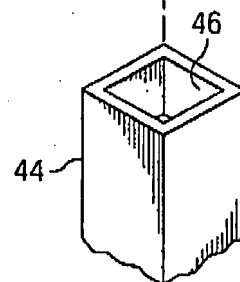
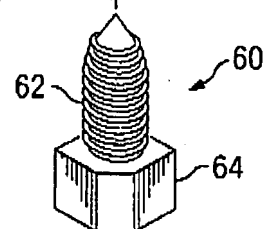
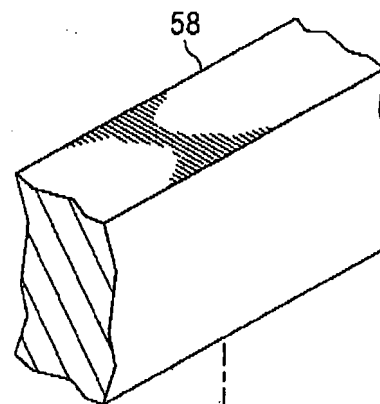


FIG. 10

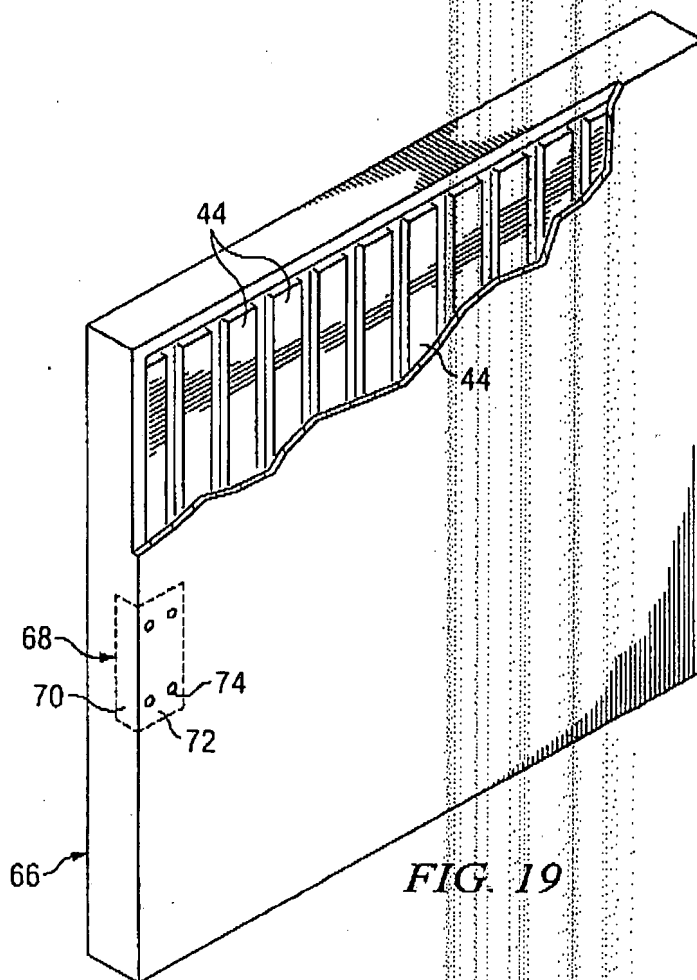
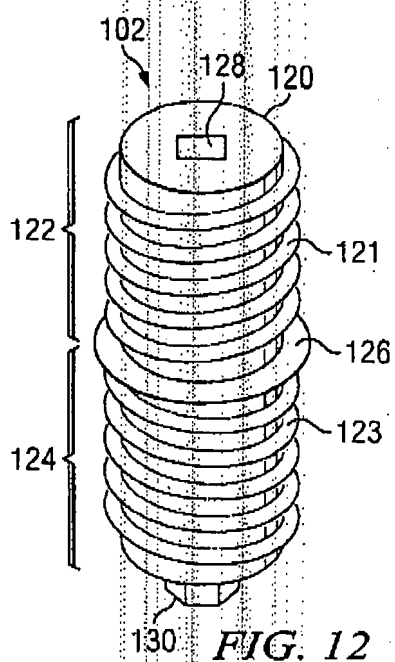
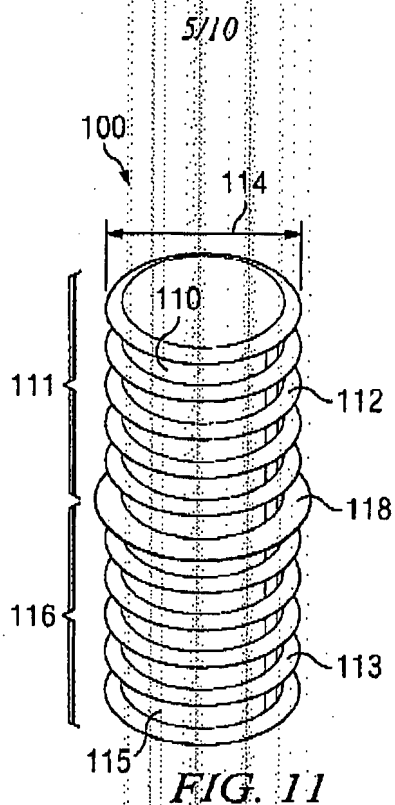


FIG. 19



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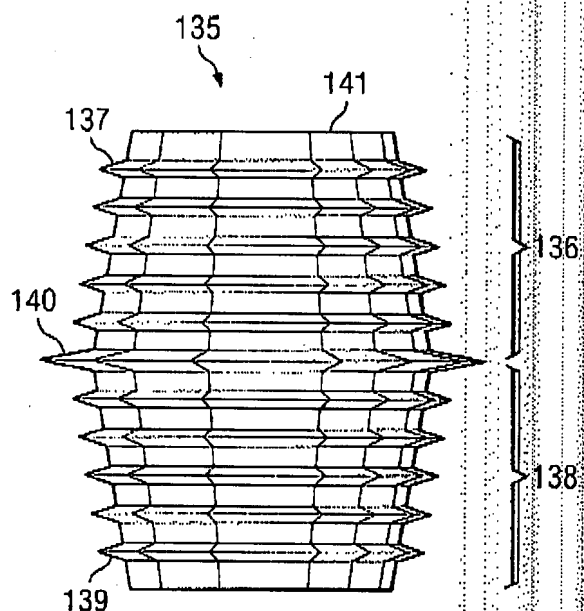


FIG. 13A

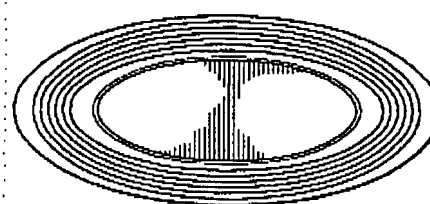


FIG. 13B

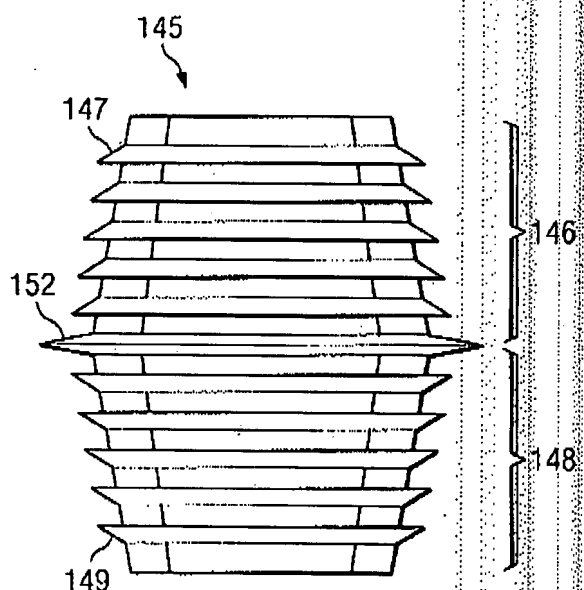


FIG. 14A

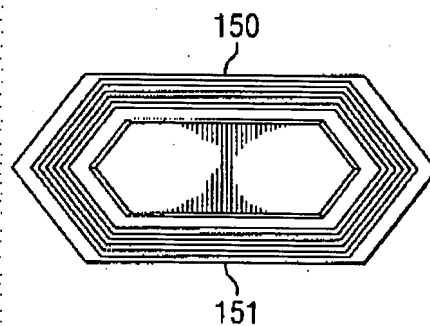


FIG. 14B

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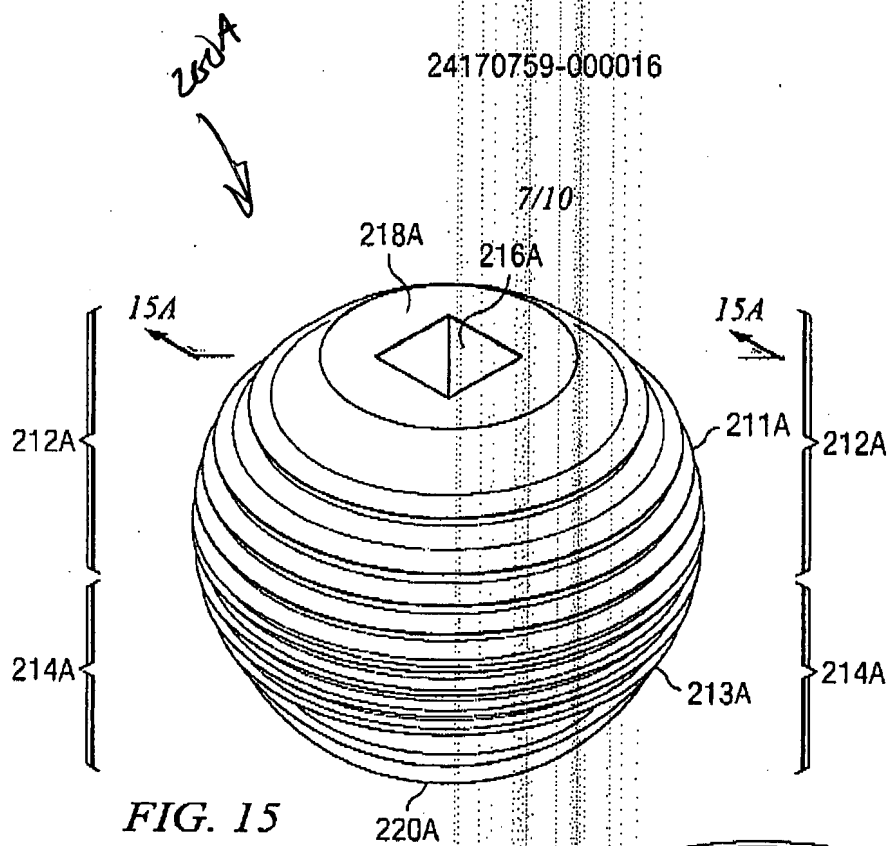


FIG. 15

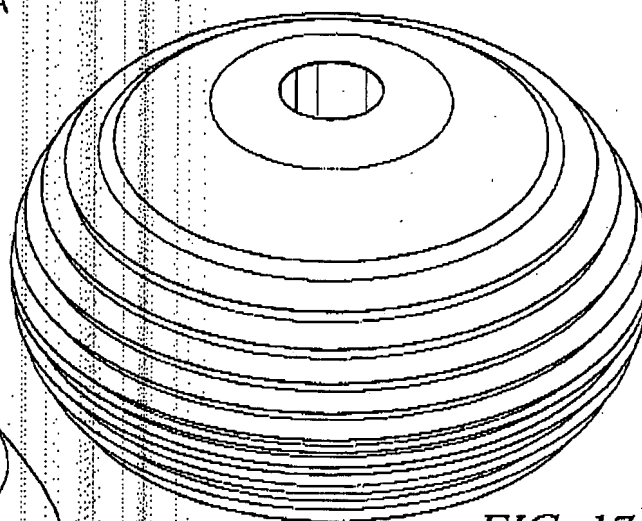


FIG. 17

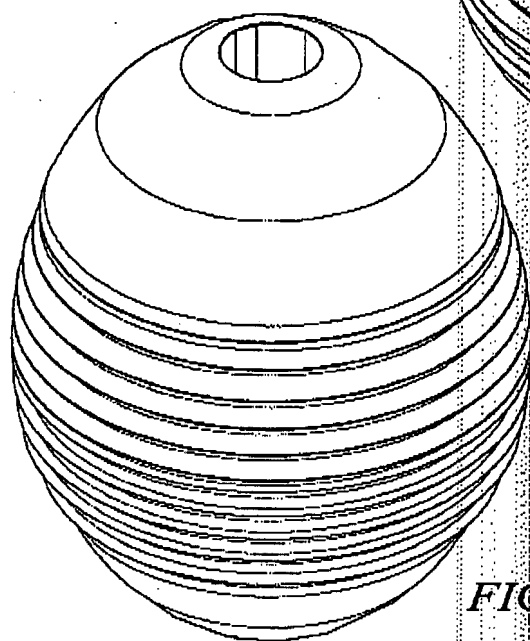


FIG. 16

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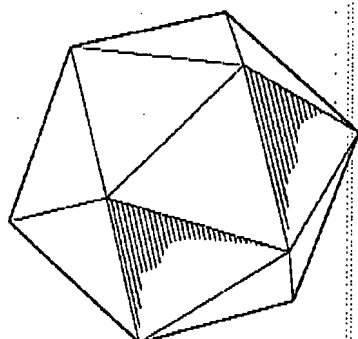


FIG. 18A

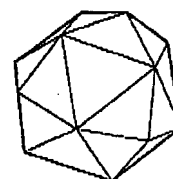


FIG. 18D

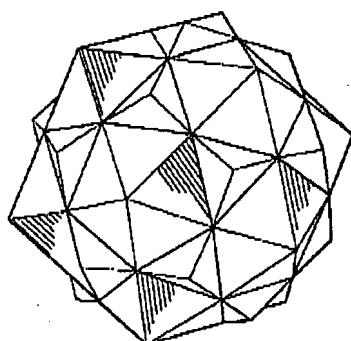


FIG. 18B

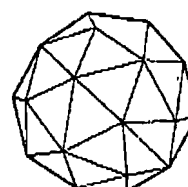


FIG. 18E

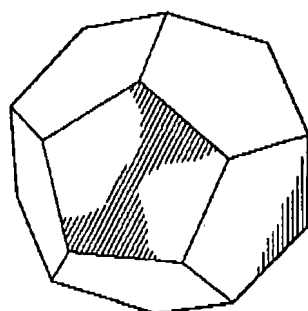


FIG. 18C

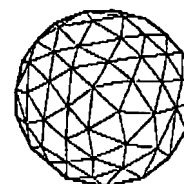


FIG. 18F

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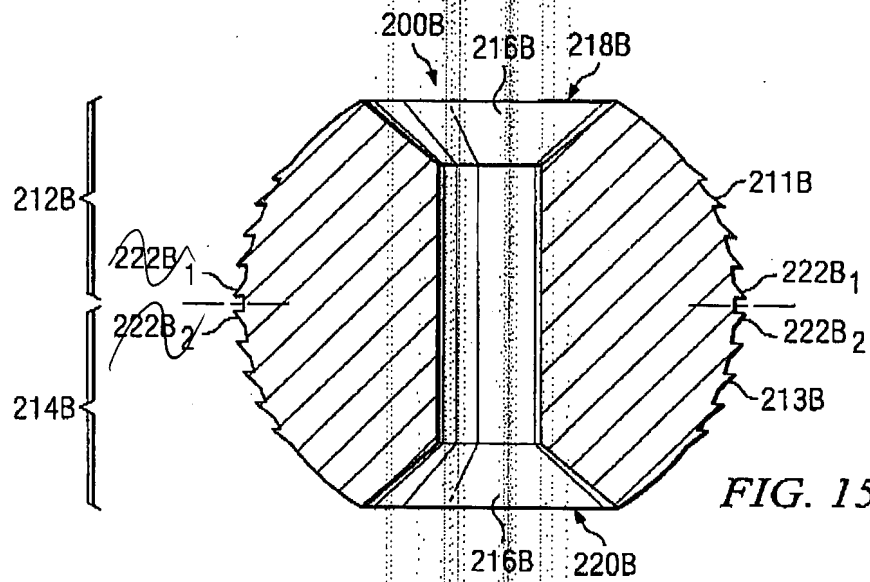
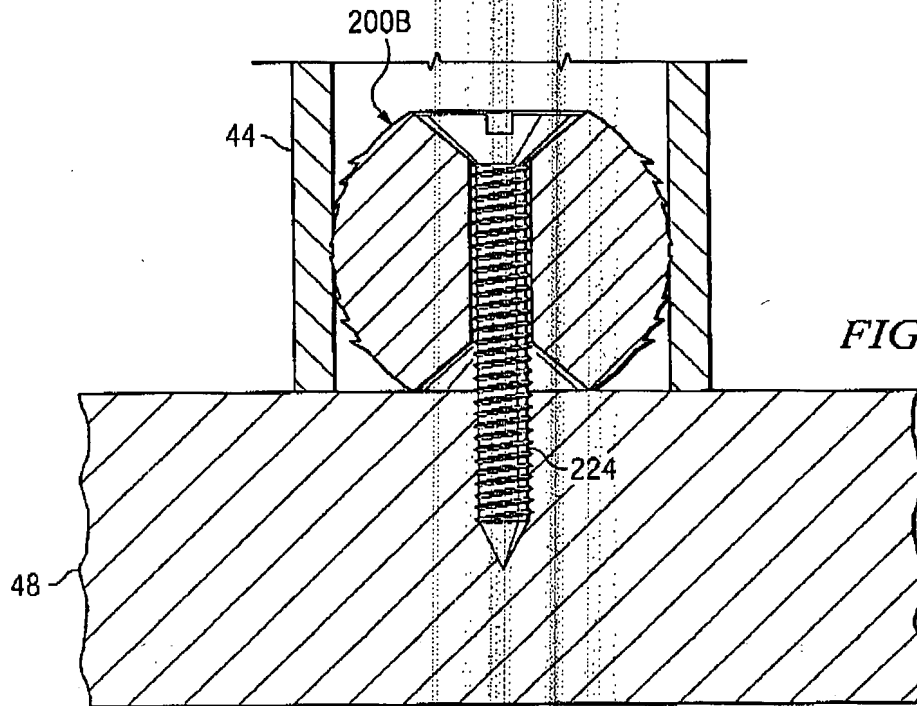
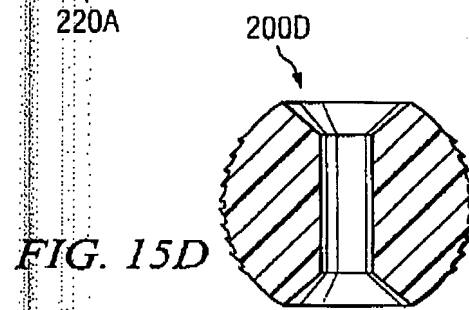
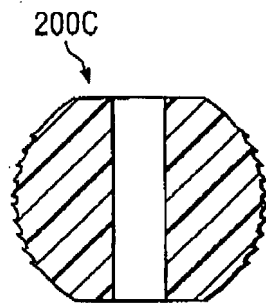
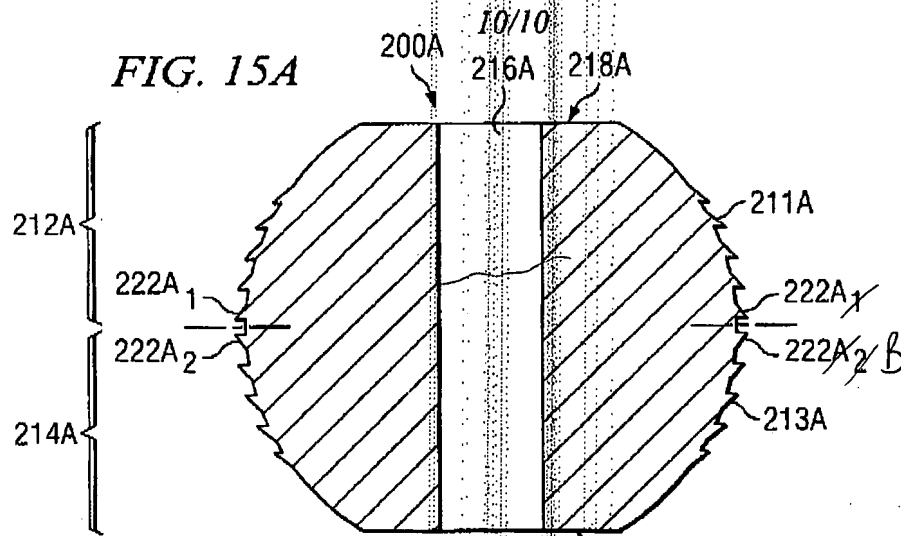


FIG. 15B

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